

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

WILLIAM BISCAN, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

SHIELDS HEALTH CARE GROUP, INC.,

Defendant.

**CIVIL ACTION NO.: 1:22-cv-10901-PBS**

LISA SMITH individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

SHIELDS HEALTH CARE GROUP, INC.,

Defendant.

**CIVIL ACTION NO.: 4:22-cv-10932-DHH**

JAMES BUECHLER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

SHIELDS HEALTH CARE GROUP, INC.,

Defendant.

**CIVIL ACTION NO.: 1:22-cv-10988-PBS**

ELSIE DIAZ, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

SHIELDS HEALTH CARE GROUP, INC.,

Defendant.

**CIVIL ACTION NO.: 1:22-cv-11002-AK**

<p>JONATHAN ROACH, individually and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>SHIELDS HEALTH CARE GROUP, INC.,</p> <p style="text-align: center;">Defendant.</p>	<p><b>CIVIL ACTION NO.: 1:22-cv-11035-PBS</b></p>
<p>TENNIE KOMAR, on behalf of herself and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>SHIELDS HEALTH CARE GROUP, INC.,</p> <p style="text-align: center;">Defendant.</p>	<p><b>CIVIL ACTION NO.: 1:22-CV-11109-JCB</b></p>
<p>DEBRA MONETTE, on behalf of herself and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>SHIELDS HEALTH CARE GROUP, INC.,</p> <p style="text-align: center;">Defendant.</p>	<p><b>CIVIL ACTION NO.: 1:22-cv-11131-PBS</b></p>

**MEMORANDUM OF LAW IN SUPPORT OF ASSENTED-TO MOTION FOR CONSOLIDATION OF ACTIONS AND SETTING SCHEDULE FOR APPLICATIONS FOR APPOINTMENT OF INTERIM CLASS COUNSEL**

Pursuant to Fed. R. Civ. P. 42(a) and Local Rule 40.1(j), Plaintiffs in the above-captioned matters (collectively “Plaintiffs”), by and through counsel, respectfully move this Court for an Order: (1) consolidating the above-captioned actions; and (2) setting a schedule for the

submission of applications for appointment of interim class counsel in these related actions.

Defendant has assented to the relief sought in this motion.

There are seven (7) related proposed class actions pending in the District of Massachusetts: *Biscan v. Shields Health Care Group, Inc.*, Case No. 1:22-CV-10901 (“*Biscan*”); *Smith v. Shields Health Care Group, Inc.*, Case No. 1:22-CV-10932 (“*Smith*”); *Buechler v. Shields Health Care Group, Inc.*, Case No. 1:22-CV-10988 (“*Buechler*”); *Diaz v. Shields Health Care Group, Inc.*, Case No. 1:22-CV-11002 (“*Diaz*”); *Roach v. Shields Health Care Group, Inc.*, Case No. 1:22-CV-11035 (“*Roach*”); *Komar v. Shields Health Care Group, Inc.*, Case No. 1:22-CV-11109 (“*Komar*”); and *Monette v. Shields Health Care Group, Inc.*, Case No. 1:22-CV-11131 (“*Monette*”) (collectively, the “Related Cases”).

Plaintiffs in the Related Cases (“Plaintiffs”) allege that Defendant Shields Health Care Group, Inc. (“Shields”) failed to secure sensitive information stored on its file servers and thus compromised millions of people’s personal information (the “Data Breach”).

Plaintiffs and Shields, by and through their respective counsel (together, the “parties”), have conferred and agree that consolidation is appropriate under Federal Rule of Civil Procedure 42(a) because the Related Cases involve common questions of law or fact. Specifically, the cases name a common defendant, arise from the same Data Breach, and assert similar claims. Further, Plaintiffs agree that a streamlined process for the appointment of interim class counsel under Fed. R. Civ. P. 23(g)(3) will be beneficial to the effective prosecution of the class claims.

## **ARGUMENT**

### **I. THE ACTIONS SHOULD BE CONSOLIDATED FOR ALL PURPOSES**

Consolidation is appropriate when the actions before the court involve common questions of law or fact. *See* Fed. R. Civ. P. 42(a); *see also Seguro De Servicio De Salud De Puerto Rico v. McAuto Sys. Grp., Inc.*, 878 F.2d 5, 8 (1st Cir.1989) (“The threshold issue” in determining whether to consolidate cases under Rule 42(a) “is whether the two proceedings involve a common party and common issues of fact or law.”).

Here, Plaintiffs and Shields agree that consolidation is appropriate under Federal Rule of Civil Procedure 42(a) because the Related Cases involve common questions of law or fact. Specifically, the cases name a common defendant, arise from the same Data Breach, and assert similar claims. Consolidation is therefore appropriate.

### **II. THE COURT SHOULD ENTER THE PROPOSED SCHEDULE TO CONSIDER APPLICATIONS FOR APPOINTMENT OF INTERIM CLASS COUNSEL**

Rule 23(g)(3) authorizes a court to “designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.” “Although not required, appointment of interim class counsel may help ‘clarif[y] responsibility for protecting the interests of the class during precertification activities, such as making and responding to motions, conducting any necessary discovery, moving for class certification, and negotiating settlement.’” *See Arkansas Teacher Ret. Sys. v. State Street Corp.*, No. 11-10230-MLW, 2012 WL 13118446, at \*1 (D. Mass. Jan. 12, 2012) (alterations in original); *see also* Fed. R. Civ. P. 23(g)(3), 2003 Advisory Commited Notes for Rule 23(g).

Here, Plaintiffs agree that a streamlined process for the appointment of interim class counsel under Fed. R. Civ. P. 23(g)(3) will be beneficial to the effective prosecution of the class

claims. The parties have met and conferred and propose, subject to Court approval, that this action should proceed on the following schedule:

- Any counsel in the Related Actions may file an individual or joint application for consideration as interim class counsel within five (5) business days after entry of an order consolidating the Related Actions;
- Plaintiffs will file a Consolidated Complaint (“Complaint”) no later than forty-five (45) days following entry of an Order appointing interim class counsel;
- Defendant will Answer or otherwise respond to Plaintiffs’ Complaint no later than thirty (30) days following filing of the Complaint; and
- Defendant shall have no obligation to Answer or otherwise respond to the current complaints in the Related Action prior to the consolidated Complaint being filed.

### **CONCLUSION**

For the foregoing reasons, Plaintiffs request that this Court enter the proposed order: consolidating the Actions and setting a schedule for applications for the appointment of interim class counsel.

Dated: July 19, 2022

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

Dated: July 19, 2022

/s/ Patrick T. Egan  
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